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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/517,052

12/03/2004

Fatima Ferreira

966927.00048

5635

32256 7590 05/02/2007  
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FALLS CHURCH, VA 22042

EXAMINER

ROONEY, NORA MAUREEN

ART UNIT

PAPER NUMBER

1644

MAIL DATE

DELIVERY MODE

05/02/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/517,052	FERREIRA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Nora M. Rooney	1644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-37 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Sequence alignment</u> .               |

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction is required under 35 U.S.C. 121 and 372.
2. This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.
3. In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I, Claims 1-4, 15 and 18-20, drawn to the polypeptide of SEQ ID NO:1 and a kit thereof.

Group II, Claims 5-11, 21-27 and 34-35, drawn to a polynucleotide encoding SEQ ID NO:1, a plasmid or vector comprising the nucleotide encoding SEQ ID NO:1, a cell containing the vector, a method of making the protein of SEQ ID NO:1 and a kit comprising the nucleotide encoding SEQ ID NO:1

Group III, Claims 13, 28-29 and 36-37, drawn to an antibody capable of binding to the polypeptide of SEQ ID NO:1 and Amb a 1.1, Amb a 1.2, Amb a 1.3 and Amb a 2 and a kit thereof.

Group IV, Claims 14, 28-29 and 36-37, drawn to an antibody capable of binding to the polypeptide of SEQ ID NO:1 but not Amb a 1.1, Amb a 1.2, Amb a 1.3 and Amb a 2 and a kit thereof.

Group V, Claims 16-17, drawn to a method of treating preventing or diagnosing an allergic disorder by administering a medicament comprising the polypeptide of SEQ ID NO:1.

Group VI, Claims 30-31, drawn to a method of treating preventing or diagnosing an allergic disorder by administering a polynucleotide encoding the polypeptide of SEQ ID NO:1.

Group VII, Claims 33, drawn to a method of treating, preventing or diagnosing an allergic disorder comprising administering an antibody capable of binding to the polypeptide of SEQ ID NO:1 and Amb a 1.1, Amb a 1.2, Amb a 1.3 and Amb a 2.

Group VIII, Claims 33, drawn to a method of treating, preventing or diagnosing an allergic disorder comprising administering an antibody capable of binding to the polypeptide of SEQ ID NO:1, but not Amb a 1.1, Amb a 1.2, Amb a 1.3 and Amb a 2.

Claim 12 links inventions III and IV and claim 32 links inventions VII and VIII.

The restriction requirement among the linked inventions is subject to the nonallowance of the linking claims, claims 12 and 32. Upon the allowance of the linking claims, the restriction requirement as to the linked inventions shall be withdrawn and any claims depending from or otherwise including all the limitations of the allowable linking claims will be entitled to examination in the instant application. Applicants are advised that if any such claims depending from or including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

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4. The inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The invention of Group I was found to have no special technical feature that defined the contribution over the prior art of WO96/13589 (PTO-892, Reference N)

WO 96/13589 teaches a polypeptide consisting of 11 contiguous amino acids of the amino acid sequence as shown in SEQ ID NO:1 of the instant application (In particular, SEQ ID NO:67 on page 92; Claim 19 and attached sequence alignment).

Since Applicant's inventions do not contribute a special technical feature when viewed over the prior art they do not have a single general inventive concept and so lack unity of invention.

Applicant is required under 35 U.S.C 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

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5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nora M. Rooney whose telephone number is (571) 272-9937. The examiner can normally be reached Monday through Friday from 8:30 am to 5:00 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (571) 272-0841. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 23, 2007

Nora M. Rooney, M.S., J.D.

Patent Examiner

Technology Center 1600



MAHER M. HADDAD  
PRIMARY EXAMINER

RESULT 37

AAW02476

ID AAW02476 standard; peptide; 11 AA.

XX

AC AAW02476;

XX

DT 06-JAN-1997 (first entry)

XX

DE RAE 28.1-3 comprising ragweed Amb aI allergen T-cell epitope.

XX

KW T-cell epitope; short ragweed; pollen allergen; Amb aI; prevention;

KW treatment; sensitivity; detection; antigen; hypersensitivity test.

XX

OS Ambrosia artemisiifolia.

XX

PN WO9613589-A1.

XX

PD 09-MAY-1996.

XX

PF 24-OCT-1995; 95WO-US014362.

XX

PR 27-OCT-1994; 94US-00330275.

PR 02-JUN-1995; 95US-00460039.

XX

PA (IMMU-) IMMULOGIC PHARM CORP.

XX

PI Kuo M, Garman R, Greenstein J, Evans S, Amsberry K, Shaked Z;

XX

DR WPI; 1996-251459/25.

XX

PT Peptide(s) of the major protein allergens of Ambrosia

artemisiifolia -

PT used to detect, prevent and treat sensitivity to ragweed pollen.

XX

PS Claim 19; Page 92; 182pp; English.

XX

CC The present peptide, which contains at least 1 T-cell epitope, comprises

CC residues 348-358 from the A. artemisiifolia (short ragweed) pollen

CC allergen Amb aI. The peptide can be used in a compsn. to prevent and

CC treat short ragweed pollen sensitivity, and to detect such sensitivity,

CC partic. using an intermediate type hypersensitivity test employing Amb

CC aI. The peptide is given as a subcutaneous injection at a dose of 1-3,

CC pref. 1.5-20 and esp. 50-750 mg

XX

SQ Sequence 11 AA;

Query Match 2.8%; Score 11; DB 2; Length 11;

Best Local Similarity 100.0%; Pred. No. 0.0026;

Matches 11; Conservative 0; Mismatches 0; Indels 0;

Gaps 0;

Qy 346 LENGAIFVASG 356

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Db 1 LENGAIFVASG 11